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# ORIGINAL

IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF PENNSYLVANIA

JOHN CHARLES KENNEY,  
Plaintiff,

v.

JAKE MENDEZ, Warden, et al.,  
Defendants.

Civil No. 1:00-cv-00-2143

May J. Blewett  
(Hon. Judge Rambo, presiding)

FILED  
HARRISBURG, PA

MAR 29 2001

MARY E. D'ANDREA, CLERK  
Per *[Signature]*  
Deputy Clerk

## PLAINTIFFS' OPPOSITION TO DEFENDANTS' STAY MOTION

COMES NOW Plaintiff, John Charles Kenney, acting pro se in the above civil case. Plaintiff-Kenney files the instant pro se motion in opposition to Defendants' previously filed motion for a stay, dated 2/26/01.

### PROCEDURAL HISTORY

On Wednesday, September 29, 1999, Defendants had maliciously and sadistically brutally attacked and beat Plaintiff-Kenney, causing "numerous" physical injuries, and emotional ongoing traumas. This occurred while Kenney was incarcerated at U.S. Penitentiary, Allenwood, located in White Deer, PA. (Union County). As a result of this terrible incident, where Kenney was beaten. That Kenney filed a Civil Rights Action on 11/28/00. Kenney's complaint was docketed by the Court on 12/12/01, i.e., (hereinafter a "Bivens" action).

Due to Kenney's penury, he had no other alternative,

Plaintiff-KENNEY's,  
Opposition For A Stay  
Page-Two

Procedural History Cont'd

Monday, March 26, 2001

but to file his complaint in forma pauperis pursuant to the provisions of 28 USC 1915(b), dated 11/7/00. By Order, dated 12/23/00, the Court Granted Kenney leave to proceed in forma pauperis. (See Docket #2).

On 12/25/00, Kenney faithfully completed U.S. Marshal 285 forms. Summoning the Four-Defendants named in the Complaint, dated 11/28/00. Defendants were served accordingly. (See Ct. Docket #2. n. 1, dated 12/23/00) (reflecting all four-defendants being served).

On 12/25/00, Kenney had filed timely objection to U.S. Magistrate from hearing the instant case.

On 1/8/01, Kenney provided to the Court and the defendants a notice that he would be "temporarily" transferred out of the jurisdiction to attend a Psychological-Evaluation, per a Court Order issued by the Hon. Judge McLure, Jr., at case no. 4:CR-99-0280 (M.D. Pa.) (Psych Eval Order, dated 1/4/01). Shortly afterwards, Kenney was, indeed, transferred to U.S. Medical Ctr. For Federal prisoners, at Springfield, Missouri. Kenney arrived at Springfield on 1/18/01.

While at Springfield, Kenney on 1/30/01 forwarded to this Court of his temporary whereabouts.

Defendants on 2/26/01, had filed a motion to stay the proceedings, while Kenney was undergoing his psychological-evaluation still at Springfield.

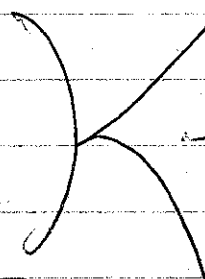
On Monday, March 12, 2001, via Marshal's Serv. Kenney had arrived back to his place of confinement at USP-Allenwood, White Deer, PA.

Plaintiff-Kenney's,  
Opposition For A Stay  
Page-Three

Monday, March 26, 2001

In a separate brief in support of Kenney's opposition Pro SE Motion, Kenney lists (10) ten factors why Defendants should be denied a stay in the proceedings. As a result, Kenney hereby asserts that the Defendants' motion for a stay, dated 2/26/01, should be denied with prejudice.

Respectfully submitted - requested,

 Kenney # 05238-041

By: Mr. John Charles Kenney, pro SE  
Register No. 05238-041  
Allenwood LSP  
P.O. Box 3000  
White Deer PA 17887-3000

Phone: (570) 547-0963, ext. 6620

Dated: March 26, 2001

IN THE UNITED STATES DISTRICT COURT FOR  
THE MIDDLE DISTRICT OF PENNSYLVANIA

JOHN CHARLES KENNEY,  
Plaintiff,

Civ. No. 1:00-CV-00-2143

v.

(Hon. Judge Rambo, presiding)

JAKE MENDEZ, Warden, et al.,  
Defendants.

CERTIFICATE OF SERVICE

Plaintiff-Kenney hereby certifies that he is the plaintiff in the above captioned case, whom on Monday, March 26, 2001, served a true carbon copy of a (3) three page hand written pro se motion in opposition to Defendants' stay motion. And that the opposing party was in fact served on this same day.

Addressee:

Mr. Dulce Donovan  
Assistant U.S. Attorney  
316 Federal Building  
240 West Third Street  
Wilkesport PA 17703

By placing said copy in a postpaid envelope addressed to the person above, by mailing said envelope and its contents in the U.S. Mail.

Kennedy #05238-041 jprase